

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

PARKERSBURG DIVISION

JAMES D. NOBLES,

Plaintiff,

v.

Case No. 6:07-cv-0546

STATE OF WEST VIRGINIA,
WOOD COUNTY, WEST VIRGINIA,
JOE MANCHIN, DEBBIE TEMSVARY,
WENDY MILLER, ANGELA HATFIELD,
KATRINA M. CHRIST, JODIE BOYLEN,
LAUREA ELLIS, and JOHN ARNOTT,

Defendants.

ORDER

Pending before the court is the plaintiff's application to proceed in forma pauperis [Docket 1]. This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court deny the plaintiff's application and dismiss the case pursuant to 28 U.S.C. § 1915(e)(2)(B).

In his Complaint, the plaintiff challenges actions by employees of the West Virginia Department of Health and Human Resources that resulted in the loss of custody of the plaintiff's child. The plaintiff's request for relief seeks the return of the child to the plaintiff's custody and damages in the amount of \$40 million.

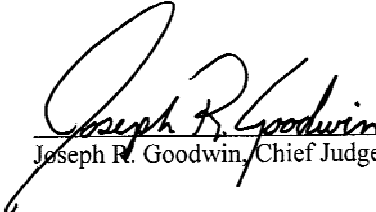
Although the plaintiff's objection to the proposed findings and recommendation are unclear, it appears that he challenges the finding that the defendants are immune from suit in

federal court under the Eleventh Amendment to the United States Constitution. The Magistrate Judge correctly found that “the State of West Virginia and the defendants in their official capacity are immune from suit in this federal court under the Eleventh Amendment to the United States Constitution.”

Additionally, the Magistrate Judge correctly concluded that this is the type of claim that the domestic relations exception to federal jurisdiction bars. After reviewing the plaintiff’s objection *de novo*, the court **FINDS** that his objection is without merit. Accordingly, the court **ADOPTS** and incorporates herein both the findings and recommendations of the Magistrate Judge, **DENIES** the plaintiff’s request to proceed in forma pauperis, and **DISMISSES** the plaintiff’s Complaint.

The Clerk is **DIRECTED** to forward copies of this written order to all counsel of record and any unrepresented party.

ENTER: December 4, 2007


Joseph R. Goodwin, Chief Judge